

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
RALEIGH DIVISION

**FILED**

**SEP 29 2004**

PEGGY B. DEANS, CLERK  
U.S. BANKRUPTCY COURT  
EASTERN DISTRICT OF N.C.

IN RE:	)	Case No. 98:02675-5-AVS
	)	Chapter 7
INTERNATIONAL HERITAGE, INC.	)	
(TAX ID#: 56-1921093)	)	Case No. 98:02674-5-AVS
	)	Chapter 7
INTERNATIONAL HERITAGE	)	
INCORPORATED	)	
(Tax ID#: 87-0421191)	)	<b>VAN ETTEN RESPONSE TO</b>
	)	<b>WOOD &amp; FRANCIS AND BRENT WOOD</b>
Address: 2626 Glenwood Avenue, Suite 200	)	<b>MOTION TO DISMISS</b>
Raleigh, NC 27608	)	

Now comes Stanley H. Van Etten, Pro Se, in opposition to Wood & Francis, PLLC and Brent Wood Response and Motion to Dismiss Stanley H. Van Etten's Motion to Show Cause.

Van Etten adopts and incorporates by reference herein, Van Etten's Motion to Show Cause, and additionally shows the Court the following.

**Motion to Dismiss for Lack of Jurisdiction Over the Person**

The Bankruptcy Court has the necessary legal power to issue a personal judgment against Brent Wood for the identified and actual damage claim caused by Mr. Wood's individual Contempt.

1. Jurisdiction in personam. Power that a court has over the defendant's person and which is required before a court can enter a personal or in personam judgment.<sup>1</sup> Pennoyer v. Neff, 95 U.S. 714, 24 L.Ed. 565.
2. The Bankruptcy Court acquired Jurisdiction in Personam over Brent Wood individually by and through Mr. Wood's voluntary and individual acts throughout the proceedings for the herein "matter in issue."
3. The filing of both formal notice of appearance by Wood & Francis and Brent Wood, by and on behalf of themselves and Van Etten, for the herein "matter in issue," is evidence of the highest character of Mr. Wood's individual consent to

<sup>1</sup> Black's Law Dictionary Abridged Fifth Edition

the Jurisdiction and Authority of the Bankruptcy Court. See. E.F. Hutton & Co. v. Brown, 305 F. Supp. 371, 387 (S.D. Tex. 1969) ("When the relationship is also evidence by the entry of a formal appearance by the attorney on behalf of the person which whom he appears, the presumption becomes almost irrebutable, for **the entry of a formal appearance has quite properly been called 'record evidence of the highest character.'**"). (emphasis added)

- a. On April 7, 2000, Wood & Francis, PLLC and Brent Wood filed formal notice of appearance in their own behalf for the herein "matter in issue," thereby consenting to the Jurisdiction and Authority of the Bankruptcy Court, see attached hereto as Exhibit 1, and also at docket entry #252.
  - b. On April 7, 2000, Wood & Francis, PLLC and Brent Wood filed formal notice of appearance on behalf of Stanley H. Van Etten for the herein "matter in issue," thereby consenting Van Etten to the Jurisdiction and Authority of the Bankruptcy Court, see attached hereto as Exhibit 2, and also at docket entry #251.
4. Brent Wood has consistently implied his individual consent to the Jurisdiction and Authority of the Bankruptcy Court.
- a. May 31, 2000, Hearing Transcript, Brent Wood addressing the Bankruptcy Court, **"Your Honor, as the clerk indicated, I'm here in three capacities, obviously on behalf of Mr. Van Etten, whom I have represented throughout this matter; and I'm here on behalf of my firm."**<sup>2</sup> (emphasis added)

#### **Motion to Dismiss for Lack of Jurisdiction Over Subject Matter**

The Bankruptcy Court has Jurisdiction and Authority over the subject matter giving rise to the Motion to Show Cause. The contested subject matter was initiated within the above-referenced core-proceedings; 1) where it was contested, and (2 Compromised, and 3) Settled, all within the Bankruptcy Court's Orders.

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<sup>2</sup>May 31, 2000, Hearing Transcript, page 5-6, Van Etten Motion to Show Cause Exhibit 5.

Brent Wood and Wood & Francis, PLLC, both voluntarily and individually, each consented to the Bankruptcy Court's Jurisdiction and Authority, for the "matter in issue" giving rise to the Motion to Show Cause.

**Motion to Dismiss for Insufficiency of Process**  
**Motion to Dismiss for Insufficiency of Service of Process**

Van Etten's actions in service of process and the sufficiency of process are in full compliance with the Bankruptcy Court's Order, Order Allowing Noticing Limitations, at docket entry #8.

"email notice to a creditor if the creditor requests E-mail notice in writing by first-class mail to the trustee and provides to the trustee the creditor's name, mail address, telephone number and E-mail address."

On December 7, 1998, Wood & Francis and Brent Wood, collectively and individually, accepted and consented to the Bankruptcy Court's Order regarding Administrative Procedures and Notice Requirements, as evidenced by their formal notice filing within the above-referenced bankruptcy proceedings, attached hereto as Exhibit 3 and see docket at entry #9.

Van Etten shows the Court the following:

1. On September 17, 2004, Van Etten served his Motion to Show Cause on Wood & Francis, PLLC, Wood & Francis legal counsel, Kieran Shanahan, Brent Wood and Charles Francis, via electronic service of process, consistent with the Bankruptcy Court and Trustee Notice Requirements.
  - a. Brent Wood: "Subject: Your Service is Attached, Date: 9/17/2004 7:13:04 AM Eastern Daylight Time, From: VANETTENS, To: Brent.Wood@BEWLaw.com"
  - b. Charles Francis: "Subject: Your Service is Attached, Date: 9/17/2004 7:58:34 AM Eastern Daylight Time, From: VANETTENS, To: cfrancis@francisandaustin.com"
  - c. Kieran Shanahan: " Subject: Your Service is Attached, Date: 9/17/2004 7:48:12 AM astern Daylight Time, From: VANETTENS, To: kieran@shanahanlawgroup.com"

2. Wood & Francis, PLLC and Brent Wood have never failed to accept Van Etten's Electronic Service of Process, having never once raised an objection.
3. The response filed by Wood & Francis, PLLC and Brent Wood, for which Van Etten now responds in opposition, is further evidence of proper and sufficient service of process.

#### **Motion to Dismiss for Failure to State a Claim**

Wood & Francis, PLLC and Brent Wood, collectively and individually, willfully and knowingly violated Courts' Orders in the unauthorized waiver and release of approximately 30,000 pages of privileged documents listed and described in detail within Van Etten's July 18, 2000 Privilege List, all of which are protected by Courts' Orders.

Van Etten has an identified actual damage claim in the amount of no less than \$195,243.32. Van Etten seeks a monetary sanction in the amount of \$195,243.32. The parties in Contempt of Courts' Orders are Wood & Francis, PLLC, Brent Wood and Scott Wilkinson, for which said Contempt caused the identified actual damage of \$195,243.32.

#### **Motion Requesting Right to Conduct Discovery**

Van Etten objects to Wood & Francis, PLLC and/or Brent Wood attempt to conduct discovery and/or initiate an Adversary Proceeding outside the Core-Proceedings in the above-referenced bankruptcy proceedings.

The Bankruptcy Court must only consider whether or not Wood & Francis, PLLC and/or Brent Wood individually knew about the Bankruptcy Courts' Orders and if so, whether or not they complied with Courts' Orders, and nothing more. See In re Walters, 868 F.2d 665, 670 (4th Cir. 1989). Civil Contempt orders serve to compel obedience to a court order and to compensate parties for losses resulting from non-compliance with a court order, no discovery is necessary and none should be allowed. See In re Haddad, 68 Bankr. 944, 952 (Bankr. D.Mass. 1987).

Respectfully Submitted,



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Stanley H. Van Etten, Pro Se

### CERTIFICATE OF SERVICE

I, Stanley H. Van Etten, do hereby certify that **ALL OF THE FOLLOWING**; 1) Van Etten's Motion in Opposition to Wood & Francis, PLLC and Brent Wood Motions to Dismiss Van Etten's Motion to Show Cause, there herein in motion, and 2) Van Etten's September 16, 2004 Motion to Show Cause and all Evidence Exhibits, and 3) Bankruptcy Court Notice to Creditors and Other Parties in Interest, Hearing scheduled for October 14, 2004 to consider and act on Van Etten's Motion to Show Cause and Wood & Francis, PLLC and Brent Wood Motions to Dismiss, and 4) Wood & Francis, PLLC and Brent Wood Response and Motion to Dismiss Stanley H. Van Etten's Motion to Show Cause, Request for Remedial action, and Notice to Parties in Interest, **is served upon all parties listed below**, by mailing a complete copy thereof to each such party at the address indicated below with its proper postage attached and deposited in an official depository under the exclusive care and custody of the United States Post Office, to include those parties requesting electronic service via email, on September 28, 2004.

Marjorie K. Lynch  
Bankruptcy Administrator  
P.O. Box 3039  
Raleigh, NC 27602-3039

Office of the U.S. Attorney  
AUSA Gaston Williams  
310 New Bern Avenue  
Suite 800  
Raleigh, NC 27601

Terri L Gardner  
Poyner & Spruill, LLP  
PO DRAWER 10096  
RALEIGH, NC 27605-0096

Brent Wood  
1135 Kildaire Farm Road  
Suite 311-8  
Cary, NC 27511

Holmes P Harden  
Maupin, Taylor & Ellis, Pa  
P. O. Drawer 19764  
Raleigh, NC 27619

Charles Francis  
P.O. Box 164  
Raleigh, NC 27602

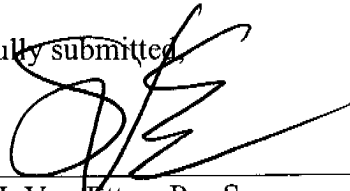
Stephani Wilson Humrickhouse  
Nicholls & Crampton, P.A.  
PO Box 18237 Raleigh, NC 27619

Anthony Flanagan  
7200 Stonehenge Drive  
Suite 311  
Raleigh, NC 27613

Wood & Francis, PLLC  
P.O. Box 164  
Raleigh, NC 27602

Scott Wilkinson  
617 Sarah Lawrence Court  
Raleigh, NC 27609

Respectfully submitted,



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Stanley H. Van Etten, Pro Se  
7924 Lake Drive  
Raleigh, NC 27613

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA

FILED

APR 07 2000

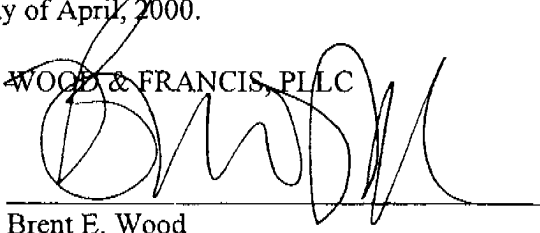
IN RE:	)		PEGGY B. DEANS, CLERK
INTERNATIONAL HERITAGE, INC.	)	CASE NO.: 98-02675-5-ATS	U.S. BANKRUPTCY COURT
	)	CHAPTER 7	EASTERN DISTRICT OF N.C.
INTERNATIONAL HERITAGE,	)		
INCORPORATED,	)	CASE NO. <del>98-02674-4</del> ATS	
	)	CHAPTER 7	
Debtor.	)		

**OBJECTION TO AND REQUEST FOR HEARING ON  
MOTION FOR APPROVAL OF COMPROMISE AND SETTLEMENT**

NOW COMES Wood & Francis, PLLC, and in response to the Trustee's Motion for Approval of Compromise and Settlement filed March 28, 2000 ("Motion"), objects to said Motion, and requests a hearing on said Motion in accordance with the notice of the Trustee and the Federal Rules of Bankruptcy Procedure.

Respectfully submitted this the 7<sup>th</sup> day of April, 2000.

WOOD & FRANCIS, PLLC

  
Brent E. Wood  
Attorney for Wood & Francis, PLLC  
State Bar No. 16898  
Two Hannover Square  
434 Fayetteville Street Mall, Suite 2300  
Post Office Box 164  
Raleigh, North Carolina 27602  
(919) 828-0801

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**CERTIFICATE OF SERVICE**

I, Brent E. Wood, attorney for Wood & Francis, PLLC, certify that I served the foregoing document on the 7<sup>th</sup> day April, 2000, upon the following parties, and in the manner below specified, by placing a copy thereof for each such party(ies) in a separate envelope bearing sufficient postage and depositing the same in the United States mail at Raleigh, North Carolina and/or by facsimile:

Holmes P. Harden, Esq.  
Maupin, Taylor & Ellis, P.A.  
3200 Beechleaf Ct., Suite 500  
P. O. Drawer 19764  
Raleigh, NC 27619-9764

Marjorie K. Lynch  
Bankruptcy Administrator  
P. O. Box 3758  
Wilson, NC 27894-3758

Terri L. Gardner  
Smith Debman Narron & Myers  
4700 New Bern Avenue  
P. O. Box 26268  
Raleigh, NC 27611-6268

This the 7<sup>th</sup> day of April, 2000.

  
~~WOOD & FRANCIS, PLLC~~

Brent E. Wood  
Attorney for Wood & Francis, PLLC  
Two Hannover Square  
424 Fayetteville Street Mall, Suite 2300  
Post Office Box 164  
Raleigh, North Carolina 27602  
Telephone: (919) 828-0801

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA

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IN RE:  
INTERNATIONAL HERITAGE, INC.

INTERNATIONAL HERITAGE,  
INCORPORATED,

Debtor.

CASE NO.: 98-02675-5-ATS  
CHAPTER 7

CASE NO. 98-02674-4-ATS  
CHAPTER 7

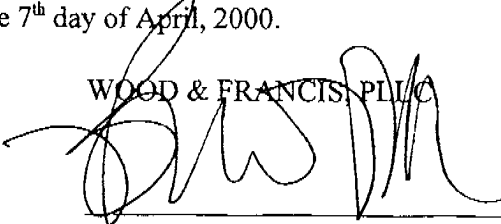
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U.S. BANKRUPTCY COURT  
EASTERN DISTRICT OF N.C.

**OBJECTION TO AND REQUEST FOR HEARING ON  
MOTION FOR APPROVAL OF COMPROMISE AND SETTLEMENT**

NOW COMES Stanley H. Van Etten, by and through counsel and in response to the Trustee's Motion for Approval of Compromise and Settlement filed March 28, 2000 ("Motion") objects to said Motion, and requests a hearing on said Motion in accordance with the notice of the Trustee and the Federal Rules of Bankruptcy Procedure.

Respectfully submitted this the 7<sup>th</sup> day of April, 2000.

WOOD & FRANCIS PLLC

  
Brent E. Wood  
Attorney for Stanley H. Van Etten  
State Bar No. 16898  
Two Hannover Square  
434 Fayetteville Street Mall, Suite 2300  
Post Office Box 164  
Raleigh, North Carolina 27602  
(919) 828-0801

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**CERTIFICATE OF SERVICE**

I, Brent E. Wood, attorney for Stanley H. Van Etten, certify that I served the foregoing document on the 7<sup>th</sup> day April, 2000, upon the following parties, and in the manner below specified, by placing a copy thereof for each such party(ies) in a separate envelope bearing sufficient postage and depositing the same in the United States mail at Raleigh, North Carolina and/or by facsimile:

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Wilson, NC 27894-3758

Terri L. Gardner  
Smith Debman Narron & Myers  
4700 New Bern Avenue  
P. O. Box 26268  
Raleigh, NC 27611-6268

This the 7<sup>th</sup> day of April, 2000.



WOOD & FRANCIS, PLLC

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Brent E. Wood  
Two Hannover Square  
424 Fayetteville Street Mall, Suite 2300  
Post Office Box 164  
Raleigh, North Carolina 27602  
Telephone: (919) 828-0801

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NORTH CAROLINA

**FILED**

DEC 07 1998

PEGGY B. DEANS, CLERK  
U.S. BANKRUPTCY COURT  
EASTERN DISTRICT OF N.C.

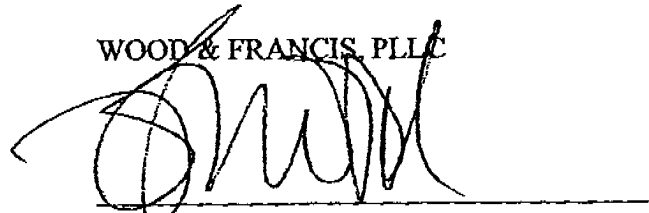
IN RE:	)	
	)	
INTERNATIONAL HERITAGE,	)	
INC.,	)	CASE NO.: 98-02675-5-AVS
	)	
Address:	)	CHAPTER 7
	)	
2626 Glenwood Ave., #200	)	
Raleigh, NC 27608	)	
	)	
ID#: 56-1921093	)	
	)	
Debtor.	)	

**ENTRY OF APPEARANCE AND REQUEST FOR NOTICES**

NOW COMES Brent E. Wood, of Wood & Francis, PLLC, pursuant to Rule 2002(g) of the Federal Rules of Bankruptcy Procedure, and hereby enters an appearance in the above-captioned proceeding on behalf of Stanley H. Van Etten and requests that a copy of all notices to creditors and other parties-in-interest be served upon him as the attorney for such interested party.

This the 7<sup>th</sup> day of December, 1998.

WOOD & FRANCIS, PLLC



Brent E. Wood  
Attorney for Stanley H. Van Etten  
State Bar No. 16898  
Two Hannover Square  
434 Fayetteville Street Mall, Suite 2300  
Post Office Box 164  
Raleigh, North Carolina 27602  
(919) 828-0801

**EXHIBIT**

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